

UNITED STATES OF AMERICA  
BEFORE THE  
BONNEVILLE POWER ADMINISTRATION

FY 2002-2003 Transmission Rates and	)	TR-02
Transmission Terms and Conditions	)	TC-02
Proceedings	)	SETTLEMENT AGREEMENT
		(June 20, 2000)

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The undersigned Parties (hereafter “Parties”) agree to the following:

1. TR-02/TC-02 Settlement Agreement

The provisions of the TR-02/TC-02 Settlement Agreement effective April 20, 2000 (“April 20 Agreement”) are incorporated by reference and such provisions, together with this agreement, are referenced hereinafter as the “Settlement Agreement.”

2. OATT for the FY 2002 – 2003 Settlement Period

Bonneville Power Administration Transmission Business Line (“BPA-TBL”) will propose the attached Open Access Transmission Tariff (“OATT”), which consists of the attached terms and conditions, schedules, and attachments listed in the OATT table of contents to be effective October 1, 2001 (“proposed OATT”), to the Commission as a replacement reciprocity tariff. The Parties agree that the proposed OATT satisfies the objectives set forth in sections 2.1 and 2.2 of the April 20 Agreement, and that, as among the Parties, section 2.3 of the April 20 Agreement shall be of no force and effect.

3. OATT Section 2.2 Rollover Rights and Related Business Practices

BPA-TBL will adopt the following business practices to transition from its OATT effective September 1, 1998, as revised June 16, 1999 (“current OATT”), which does not include section 2.2 of the Commission’s Pro Forma Tariff, to the proposed OATT, which does include section 2.2, and to implement that OATT section 2.2, and post this section 3 on the OASIS on or before July 12, 2000.

The proposed OATT section 2.2 does not apply to transmission service that was requested prior to October 1, 2001, except as provided in this section 3 below. In order to transition from its current OATT to its proposed OATT, BPA-TBL will implement reservation priorities for existing firm service (rollover rights) pursuant to section 2.2 of the proposed OATT as follows:

- 3.1 Reservation priorities as described in section 2.2 of the proposed OATT will apply immediately to BPA's historic wholesale full and partial requirements customers, direct service industry customers, and transmission-only customers served by transmission capacity supplied under pre-Order 888 FPT, IR and BPA Power Sales contracts with a contract term of one year or more over the Integrated Network ("Historic Transmission Service"). Such Historic Transmission Service shall also include transmission service that has been converted from transmission capacity supplied under such pre-Order 888 FPT, IR and BPA Power Sales contracts to (1) long-term firm transmission service under Parts II and III of the BPA-TBL OATT or other BPA-TBL transmission agreement; or (2) long-term firm transmission service under Parts II and III of the BPA-TBL OATT, or other BPA-TBL transmission agreement, where such capacity was used by a third party to serve the Transmission Customer's historic load. Section 2.2 rights will apply to the amount of long-term firm transmission capacity held under such contract(s) or converted contract(s) at the time that the right is exercised. This section 3.1 applies whether such conversion occurred in the past or occurs in the future.
- 3.2 The proposed OATT section 2.2 will also apply to service with a Service Commencement Date on or after October 1, 2001, unless such service was requested between April 20, 2000 and the day before the "Designated Day" referred to in section 3.3 below. For Transmission Customers with advance reservations with a Service Commencement Date on or after October 1, 2001 that were requested prior to April 20, 2000, section 2.2 rights will be limited to three (3) consecutive rollovers of one (1) year each following the termination of the current Service Agreement. This paragraph does not apply to contracts or converted contracts referred to under section 3.1 above.
- 3.3 As soon as practicable after August 15, 2000, BPA-TBL will post the proposed OATT transition implementation procedures on its OASIS. The proposed OATT transition implementation procedures shall provide notice that on the 31<sup>st</sup> day after such posting ("Designated Day"), BPA-TBL will treat all requests for long-term firm transmission service with a Service Commencement Date on or after October 1, 2001 that are filed during posted business hours on the Designated Day as having the same priority in the request queue. BPA-TBL will also notify customers that to the extent requests for service with the same priority in the queue exceed available transmission capability ("ATC"), such requests for Reserved Capacity shall be allocated on a pro rata basis. For purposes of determining a customer's pro rata share, any request in excess of the posted ATC shall be treated as equal to the posted ATC. If any customer offered a pro rata share declines to execute a Service Agreement, that

customer's pro rata share of capacity shall be reallocated to other customers with the same priority in the queue up to the amount of the customer's request. No action is required under this paragraph to preserve rights under contracts described in section 3.1.

4. Business Practices

BPA-TBL will use good faith efforts to establish as soon as practicable before January 1, 2001, business practices that will implement the proposed OATT, including without limitation sections 4.1 through 4.5 below. BPA-TBL will establish as soon as practicable but before October 1, 2001, business practices that will implement the following sections 4.1 through 4.4, for at least the period FY 2002 – FY 2003:

4.1 Deposit Waiver for Creditworthiness

BPA-TBL will waive deposits pursuant to sections 17.3 and 29.2 of the proposed OATT for Transmission Customers who meet the creditworthiness requirements of section 11 of the proposed OATT. The creditworthiness determination will be made consistent with the BPA Standards of Conduct.

4.2 Extensions of Commencement of Service

The bumping, acceleration and matching requirements of section 17.7 of the proposed OATT will only apply if the Transmission Customer requests and obtains an extension of the Service Commencement Date specified in its executed Service Agreement. All other Long-Term Firm Point-to-Point Transmission Service will be treated as unconditional service.

4.3 Self Supply of Energy Imbalance

The Transmission Customer may self-provide an amount of Energy Imbalance Service by meeting the following conditions:

4.3.1 The Transmission Customer must make available to the BPA-TBL for deployment an amount of generation that it wishes to designate for use to expand the energy imbalance deviation band. The difference that may occur between scheduled and actual hourly load before BPA-TBL's Energy Imbalance Service is used is equal to the amount of generation made available by the Transmission Customer for this purpose.

4.3.2 To be considered available, the amount of generation the Transmission Customer wishes to provide to meet its obligation

must be directly controllable by BPA-TBL to meet the imbalance through electronic/automatic means.

- 4.3.3 If the amount made available is not sufficient to cover the Transmission Customer's obligation, BPA-TBL's Energy Imbalance Service will be provided to cover the amount of deficiency, in accordance with the ACS-02 Rate Schedule or its successor.

4.4 Generation Imbalance Service

BPA-TBL will develop business practices to clarify how total hourly schedules from generation resources in BPA-TBL's Control Area will be determined.

4.5 Contiguous Points of Delivery

The treatment of contiguous points of delivery set forth in footnote 4 of Exhibit A to Attachments A and B of BPA's current OATT will be established as a business practice.

5. Revisions to TR-02 Rate Schedules

The Parties agree that BPA-TBL will modify the 2002 Initial Transmission Proposal: 2002 Transmission and Ancillary Service Rate Schedule and General Rate Schedule Provisions (dated March 15, 2000, TR-02-E-BPA-04) to include:

5.1 Reservation Fees

BPA-TBL will apply a non-refundable reservation fee to any Transmission Customer who postpones service by 1) reserving "deferred" service for Long-Term Firm Point-to-Point Transmission Service through an advanced reservation; or 2) requesting an extension of the Service Commencement Date specified in the executed Service Agreement. For requests made during the period October 1, 2001 through September 30, 2003, "deferred" service is any advance reservation of Long-Term Firm Point-To-Point Transmission Service with a Service Commencement Date greater than one (1) year from the request date.

5.2 Unauthorized Increase Charge and Ratchet Demand

Under appropriate circumstances, BPA-TBL may waive or reduce the Unauthorized Increase Charge ("UIC") to a Transmission Customer on a non-discriminatory basis. The Transmission Provider may also waive or reduce the Ratchet Demand for an IR customer. A transmission customer

seeking such reduction or waiver must demonstrate good cause for relief, including a demonstration that:

5.2.1 The event which resulted in the UIC or Ratchet Demand

5.2.1.1 was the result of an equipment failure or outage that could not reasonably have been foreseen by the transmission customer; and

5.2.1.2 did not result in harm to BPA-TBL's transmission system or transmission services, or to any other transmission customer; or

5.2.2 The event which resulted in the UIC or Ratchet Demand

5.2.2.1 was inadvertent;

5.2.2.2 could not have been avoided by the exercise of reasonable care;

5.2.2.3 did not result in harm to BPA-TBL's transmission system or transmission services, or to any other transmission customer; and

5.2.2.4 was not part of a recurring pattern of conduct by the transmission customer.

If a waiver or reduction is granted under the proposed OATT to a Transmission Customer, notice of such waiver or reduction will be posted on the Transmission Provider's OASIS.

If the transmission customer is subject to a UIC (or establishes a Ratchet Demand) in a month, but has not received notice from the Transmission Provider of such UIC (or Ratchet Demand) by billing or otherwise, then the transmission customer shall not be assessed such UIC (or establish a Ratchet Demand) in the following months if such subsequent assessments are due to the lack of notice. In such event BPA-TBL may bill the transmission customer the highest UIC (or Ratchet Demand) that would have been assessed.

5.3 IR rate

BPA-TBL will roll the costs of the required ancillary services into the IR rate. The cost component for the two required ancillary services will be equal to the unbundled prices set forth in the ACS-02 rate schedule. A

credit for Reactive Supply and Voltage Control from Generation Sources will be available on an equivalent basis to the credit for the PTP customers.

5.4 Generation Imbalance Service Rate

The rate schedule for Generation Imbalance Service will be modified to specify that the rate will apply if such generation imbalance service is provided for in an interconnection agreement or other arrangement.

6. Reservation of Rights

- 6.1 This Settlement Agreement will not preclude any Party from challenging any section of the proposed OATT (or BPA-TBL business practices implementing the terms of sections 3 and 4.1 through 4.4) after September 30, 2003. No Party to this Settlement Agreement shall contend that, by failing to challenge any section of the proposed OATT (or BPA-TBL business practices implementing the terms of sections 3 and 4.1 through 4.4) on or before September 30, 2003, any Party challenging such section thereafter failed to exercise its rights in a timely manner or that such Party is barred under any equitable or legal doctrine.
- 6.2 Except as permitted elsewhere in the Settlement Agreement, on or before October 1, 2003, no Party may challenge any business practice implementing sections 3 and 4.1 through 4.4 on any ground other than that such business practice is inconsistent with the Settlement Agreement.
- 6.3 Except as provided in section 6.2, no Party, by executing the Settlement Agreement, waives any right to claim that a particular charge, methodology, practice, rate schedule or OATT provision has been improperly applied.

7. Stipulations

- 7.1 Nothing in this Settlement Agreement is intended to in any way alter the BPA-TBL's authority and responsibility, if any, to periodically review and revise (or the Parties' rights to challenge such revisions) the terms and conditions for OATT, or to transition to the formation of a Regional Transmission Organization.
- 7.2 BPA-TBL will file the proposed OATT attached to this Settlement Agreement with the Commission with a request for a declaratory order finding that such terms and conditions satisfy the Commission's reciprocity requirements applicable to non-jurisdictional utilities. The Parties agree not to challenge (or support or join any challenge to) such

request for declaratory order with the Commission or in any judicial review thereof. This section 7.2 clarifies section 3.3 of the April 20 Agreement with respect to language expressly referring to the BPA-TBL OATT.

- 7.3 If the proposed OATT described in section 2 above is approved by the Commission, each Party agrees not to seek an order from the Commission under sections 211 or 212 of the Federal Power Act compelling BPA-TBL to provide transmission, Ancillary Services or Control Area Services under terms and conditions other than those so established and approved, unless such order is sought after April 1, 2003, and is for service commencing after September 30, 2003.
  - 7.4 Each Party agrees that it will not assert in any forum that anything contained in this Settlement Agreement, nor any action taken by any Party, the Hearing Officer/Administrative Law Judge, the Administrator, the Commission or a court with respect to the transmission terms and conditions proposed by BPA-TBL pursuant to this Settlement Agreement, creates or implies any procedural or substantive precedent, nor creates agreement to any underlying principle or methodology.
  - 7.5 Nothing in the Settlement Agreement amends any contract or modifies rights or obligations or limits the remedies available thereunder.
  - 7.6 For purposes of this Settlement Agreement the term “contract” or “contracts” shall include without limitation intra-agency or inter-agency agreements within or among federal entities.
  - 7.7 Unless otherwise defined herein, all capitalized terms shall have the meanings set forth in the proposed OATT and rate schedules.
  - 7.8 Each Party agrees to be bound by the provisions of the April 20 Agreement with regard to the TR-02 rates and charges for FY 2002-2003.
8. Proceedings in the TC-02 and TR-02 Dockets
- 8.1 The Parties shall move to dismiss the TC-02 docket and BPA-TBL will file the proposed OATT with the Commission as provided in section 2 above.
  - 8.2 The Parties shall move to adopt a proposed TR-02 procedural schedule for the purpose of implementing the rate settlement provided for herein.

9. Savings Clause

If any material substantive provision covered by this Settlement Agreement is disapproved by the Commission, the Parties will use their best efforts to agree to an alternative means to achieve a result functionally equivalent to that originally agreed to, consistent with the order issued by the Commission or a court of competent jurisdiction. If the Parties fail to negotiate such an alternative and BPA-TBL makes a compliance filing with the Commission, the Parties reserve any and all rights to challenge such compliance filing.

10. Revocation

- 10.1 In the event that any party to the BPA TR-02 and TC-02 dockets fails to execute and deliver to the Hearings Clerk this Settlement Agreement at or before 1:30 p.m. on Tuesday June 20, 2000, any Party that has executed this Settlement Agreement shall have the opportunity to revoke orally on the record its execution of this Settlement Agreement at the hearing on Tuesday June 20, 2000.
- 10.2 If the signing of this Settlement Agreement by a party is subject to ratification by its governing body or if a party cannot execute this Settlement Agreement due to lack of authority from its governing body (or if the officer to execute this Settlement Agreement for a Party is not available) at or before 1:30 p.m. on Tuesday, June 20, 2000, then such party so supporting this Settlement Agreement shall state orally on the record at the hearing on Tuesday, June 20, 2000 that it will recommend execution of this Settlement Agreement to its governing body (or to its officer). Any such party who fails to execute, or revokes, this Settlement Agreement must either (1) waive its rights to object to the Settlement Agreement or (2) in order to retain its rights to object to this Settlement Agreement, submit a written statement specifying its objection(s) to the Settlement Agreement by July 7, 2000. In the event that any such party submits a written objection by July 7, 2000, then any Party who has executed this Settlement Agreement may revoke its execution of this Settlement Agreement by written notice to the Hearing Clerk on or before July 12, 2000.

This Settlement Agreement may be executed in counterparts.

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This Settlement Agreement is effective June 20, 2000, regardless of the date signed by each executing Party.

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(Signature) Date: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

Representing:\_\_\_\_\_

\_\_\_\_\_  
(Signature) Date: \_\_\_\_\_

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(Print Name)

Representing:\_\_\_\_\_

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(Print Name)

Representing:\_\_\_\_\_

